IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 7.12.2004

CORAM:

THE HONOURABLE MR.JUSTICE P.SATHASIVAM
AND
THE HONOURABLE MR.JUSTICE AR.RAMALINGAM

Writ Appeal No.232 of 2000

1.The State of Tamil Nadu,
rep. by its Secretary,
Home (Transport) Department,
Fort St.George, Chennai-9.

2.The Transport Comissioner,
-cum-State Transport Authority,
Chepauk, Chennai-5.

3.The Deputy Transport Commissioner,
Opp. to Vidyodaya School,
Thirumalai Pillai Road,
Chennai-17.

4.The Regional Transport Officer,
Madras East, Madras-40.

5.The Regional Transport Officer,
Madras West, Madras-78.

6.The Regional Transport Officer,
Madras South, Madras-32.

7.The Regional Transport Officer,
Madras-North, Madras.

8.The Regional Transport Officer,
Meenambakkam, Madras.

9.The Regional Transport Officer,
North East, Madras-12.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

10.The Regional Transport Officer,
Madras Central, Madras-31. .. Appellants

-Vs-

The Tamil Nadu Driving School
Urimaiyalargal Sangam,
22-A, Velayutham Street,
Nungambakkam, Chennai-34,
rep. by its President
M.Pandian .. Respondent

Writ Appeal is preferred against the Order dated 22.6.1998 made in W.P.No.13605 of 1997 on the file of this Court.

For appellants : Mr.S.Kandaswami,
Special Govt. Pleader

For respondent : No appearance.

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

This writ appeal is directed against the order of the learned single Judge, dated 22.6.1998, made in W.P.No.13605 of 1997, in and by which, the learned Judge, after holding that the impugned direction given by the Deputy Transport Commissioner, Chennai-17 cannot be given effect to for want of jurisdiction, allowed the writ petition filed by the Tamil Nadu Driving School Urimaiyalargal Sangam.

2. The learned Special Government Pleader, by taking us through the letter of the Joint Transport Commissioner, Chennai-17, dated 17.7.1997 and letter of the Commissioner, Chennai-17, dated 19.7.1997 as well as Section 9(6) of the Motor Vehicles Act, 1988, Rule 11 of Central Motor Vehicles Rules, 1989 and Rule 14 of Tamil Nadu Motor Vehicles Rules, would submit that the conclusion arrived at by the learned single Judge cannot be sustained.

3. In order to appreciate the said contention, it is relevant to refer the brief facts:

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Tamil Nadu Driving School Urimaiyalargal Sangam filed the said writ petition praying for issuance of writ of mandamus forbearing the respondents and its subordinates from implementing the directions of the Deputy Transport Commissioner, Chennai-17 contained in Letter Nos.6593/A3/97, dated 17.7.1997 and A3/6593/97, dated 19.7.1997. It is seen that the members of the petitioner-Sangam are Driving School owners. It is not in dispute that as per the provisions of the Act and Rules, they have to adhere and fulfil certain conditions. Equally, it is not in dispute that the State Government is empowered to make certain Rules for the purpose of carrying out into effect the provisions contained in Rules of the Motor Vehicles Act other than certain provisions contained therein.

According to the petitioner-Sangam, their members are imparting instruction in driving of motor vehicles and the matters connected therewith. In Madras city, vehicles were taken to the respective Transport Offices for testing the candidates and tests were conducted near the offices of the Transport Authorities. Pursuant to meeting of the Officers of the Transport Department, the State of Tamil Nadu, in July 1997, took a decision on and from 24.7.1997 that the tests relating to heavy driving licences shall be conducted at Road Transport Training Centre at Gummidipoondi so far as the licences to be issued by various Transport Offices in Madras City and for that, a fee of Rs.12/- shall be charged from each applicant. Based on the above decision of the Government, by the impugned letter dated 17.7.1997, the Deputy Transport Commissioner, Chennai-17, addressed to all Regional Transport Offices in Madras City, has intimated that on and from 24.7.1997, heavy vehicle driving tests relating to Madras city applicants shall be done only at Gummidipoondi and fee of Rs.12/- shall be collected from each applicant.

In another letter, dated 19.7.1997, the Deputy Transport Commissioner, Chennai-17, has intimated that the tests relating to Chennai Central and North East will be conducted on Mondays at Gummidipoondi, relating to Chennai East and Meenambakkam, will be conducted on Tuesdays at Gummidipoondi, relating to Madras South will be conducted on Wednesdays at Gummidipoondi, relating to Madras West will be conducted at Gummidipoondi on Thursdays and relating to Madras North will be conducted on Fridays at Gummidipoondi. Aggrieved by the same, the pettioner-Sangam has filed the writ petition under Article 226 of the Constitution of India contending that the place, namely, Gummidipoondi, is not lying in Madras City and it lies in another district known as Thiruvallur district. The said place lies at a distance of 80 km from Madras South Regional Transport Office from Meenambakkam Regional Transport Office etc. They also contended that it would

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

be difficult to go to Gummidipoondi and the Government have not considered the time factor. It is further contended that the Motor Vehicle Inspectors attached to the Regional Transport Offices are empowered to test within their jurisdiction and the Gummidipoondi, which lies within the Thiruvallur District, is beyond the competence of Motor Vehicle Inspectors.

4. The State of Tamil Nadu, as respondent in the writ petition, filed a counter affidavit disputing various averments made by the petitioner Sangam. It is stated that the driving licences are being issued by the Regional Transport Offices in Chennai city after conducting tests in the respective class of vehicles. There are seven Regional Transport Offices in Chennai city and driving tests are being conducted for the issue of driving licences in all the Offices and there is no adequate space in the office premises of the Regional Transport Office to conduct the tests and the driving tests are being conducted in the roads in which the traffic of vehicles are too high and hence the driving tests could not be conducted to the entire satisfaction. Hence there is a need for a separate testing range for the conduct of driving tests.

5. It is also stated in the counter that necessary action is being taken to select a space in the Chennai city to form the Testing Range and until such time the Testing Range is established, some arrangement to carry on the test is essential and only in those circumstances, the Government selected a place at Gummidipoondi as Testing Range owned by Institute of Road Transport. Based on the said decision and taking note of convenience of all the persons concerned, the Deputy Transport Commissioner issued instruction in his letters dated 17.7.1997 and 19.7.1997 to all Regional Transport Officers in Chennai city. Since there is seven Regional Transport Offices in Chennai city, a programme was charted out by the Deputy Transport Commissioner, Chennai-17 to conduct the driving test on all working days in the week from 24.7.1997.

6. In the light of the above pleadings, the learned single Judge on the assumption that the Motor Vehicles Inspectors, attached to the Regional Transport Offices, will have to function within the limit of Regional Transport Offices and on the fact that the Testing Range, namely, Gummidipoondi is not within the city of Chennai, allowed the writ petition as requested by the petitioner-Sangam.

7. The respondent-Sangam, though duly served in the writ

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

appeal, has not chosen to contest the appeal by engaging a counsel. We have heard the learned Special Government Pleader at length.

8. Before considering the two letters, dated 17.7.1997 and 19.7.1997, issued by the Deputy Transport Commissioner, the learned Special Government Pleader brought to our notice the relevant provisions and the rules. Among the provisions, Section 9(6) of the Motor Vehicles Act, 1988, Rule 11 of the Central Motor Vehicle Rules, 1989 and Rule 14 of the Tamil Nadu Motor Vehicles Rules are relevant.

9. With regard to the need for issuance of two impugned letters dated 17.7.1997 and 19.7.1997, we have already referred to the stand of the Government, as seen from the counter affidavit vide para 5. There cannot be any dispute that in the city of Chennai, particularly, considering the heavy traffic population, it would not be possible for any Regional Transport Officer to conduct the test as per the statutory provision, within their premises, particularly for heavy vehicles. In such circumstances, after taking deliberation with officers concerned and departments and based on their stand, the Government had taken a decision to conduct the test for heavy vehicles in a place which is convenient. Accordingly, the Testing Range owned by Institute of Road Transport at Gummidipoondi was selected. After taking such decision, the same was communicated by the Deputy Transport Commissioner to all the Motor Vehicle Inspectors within the jurisdiction of Chennai city.

10. In the counter affidavit, it is also stated that necessary action is being taken to select the place to form the Testing Range and the selection of Testing Range at Gummidipoondi is only a temporary measure. In such circumstance, in the light of the statutory provisions referred to above and on going through the instructions issued in the form of two impugned letters by the Deputy Transport Commissioner, we are of the view that the said instructions are well within the competence and jurisdiction of the Officers and we have also satisfied that they have not exceeded their power or jurisdiction as observed by the learned single Judge. In other words, it is not a question of exercising the jurisdiction for implementing the rules or statutory provisions. As explained in the counter affidavit of the Transport Department, for convenience of persons concerned, who applied for heavy vehicle licences, that too, after due deliberation, the Government have permitted the Officers to use the Testing Range at Gummidipoondi, which belongs to Institute of

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Road Transport.

11. As rightly contended by the learned Special Government Pleader, the said Range is only for the purpose of testing the ability and performance of the persons seeking for heavy vehicle licences and the said place is more suitable and convenient. The Officers are not going to inspect or verify the other vehicles or road users in the place in question, namely, Gummidipoondi. As stated earlier, the persons, who desire to get heavy vehicle licences, have to prove their capacity or ability at the place in question, namely, at Gummidipoondi and if they satisfy, the Authority concerned-Motor Vehicles Inspectors will issue necessary certificates.

12. In the light of what is stated above, we are unable to share the view expressed by the learned single Judge and we are satisfied that it is not a question of jurisdiction as observed by the learned Judge and we are also satisfied that the Government and other Authorities are well within the powers as referred to above. Accordingly, the order of the learned single Judge, dated 22.6.1998, made in W.P.No.13605 of 1997, is set aside.

13. The Writ Appeal is allowed. No costs.

Sd/

Asst.Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government
of Tamil Nadu,
Home (Transport) Department,
Fort St.George, Chennai-9.

2.The Transport Comissioner,
-cum-State Transport Authority,
Chepauk, Chennai-5.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

3.The Deputy Transport Commissioner,
Opp. to Vidyodaya School,
Thirumalai Pillai Road,
Chennai-17.

4.The Regional Transport Officer,
Madras East, Madras-40.

5.The Regional Transport Officer,
Madras West, Madras-78.

6.The Regional Transport Officer,
Madras South, Madras-32.

7.The Regional Transport Officer,
Madras-North, Madras.

8.The Regional Transport Officer,
Meenambakkam, Madras.

9.The Regional Transport Officer,
North East, Madras-12.

10.The Regional Transport Officer,
Madras Central, Madras-31.

1 cc to The Govt. Pleader, SR. 53876

W.A.No.232 of 2000

RI (CO)
kk

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/